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## THE SUPREME COURT OF PORTO RICO.

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Before the cession of the Island to the United States, the Supreme Court of Spain, sitting at Madrid, was the court of last resort for cases arising in the courts of Porto Rico. Of course since the American occupation, that function has been transferred to the Supreme Court of the United States, sitting at Washington; but much fewer cases can be taken to the American Supreme Court than formerly could be reviewed by that of Spain. The higher courts in the Island, called "Audiencias," occupied a position intermediate between other trial courts and the court of last resort, somewhat similar to that given to the Circuit Courts of Appeal under our Federal system.

In the days of the American Military Government the Supreme Court was constituted by General Orders and composed of five judges, who had somewhat similar powers to those exercised by the present Supreme Court; however, not very many civil cases were decided by this court, three-fourths of all the questions before it being of a criminal nature.

On the passing of the Organic Act by Congress, commonly called the Foraker Bill, civil government was instituted in Porto Rico, and began its functions on the first of May, 1900. Under this Act a Supreme Court consisting of five judges was constituted, with civil and criminal jurisdiction without regard to the amount involved or the punishment inflicted. An appeal was reserved from this Supreme Court to the Supreme Court of the United States in "the same cases as from the Supreme Courts of the Territories of the United States." The regulations governing such appeals are the same and they are prosecuted in the same manner. No case has yet been taken to the Supreme Court of the United States under this law.

The judges of this Court are appointed by the President, with the advice and consent of the United States Senate. No term is fixed for their service, and it is generally presumed to be during the pleasure of the President, or during good behavior. The first appointment included four Porto Ricans and one American, consisting of the following gentlemen: Chief Justice, José S. Quinones; Associate Justices, José Conrado Hernandez, José Maria Figueras, Ra-

fael Nieto Abeille and Louis Sulzbacher. After about six months service Judge Nieto resigned to accept a judicial position in Cuba, of which island he is a native. For several months his seat remained vacant and finally in October, 1901, James H. MacLeary was appointed to fill the vacancy.

Since the institution of Civil Government this Court has had many very interesting cases brought before it, both civil and criminal, several of them capital, in which four of the defendants suffered death by the garrotte.

No very extensive land litigation has been pending in the courts, nearly all the lands of Porto Rico being divided into small tracts, and the boundaries well ascertained and the titles well settled in the occupants. There is also very little commercial litigation in comparison to a population of the same size in the United States, most of the mercantile business in the Island being done on a cash basis, and when transacted on a credit, failure of payment is much more rare than in the North. However, there is sufficient business among the million of people and the five District Courts of the Island of Porto Rico to keep the Supreme Court busy from morning till night for nine or ten months during the year.

When the Americans took possession of the Island of course they found the Spanish laws in full force and vigor, and all the courts continued to execute the existing laws and follow the ancient procedure. Jury trials were unknown, either in civil or criminal cases, but gradually American ideas have found their way into the laws and have pervaded the practice of the courts.

During the last session of the legislature in March of this year (1902), the Legislative Assembly of Porto Rico enacted a Political Code, a Civil Code, a Penal Code and a Code of Criminal Procedure. However, no Code of Civil Procedure was presented or passed, and while the Civil Code prescribes American principles to a large extent for the government of property and contracts, and of matters of a pecuniary nature, the machinery for the enforcement of such rights and obligations is the ancient Spanish Code of Procedure. Under this Code the Supreme Court of Porto Rico is a Court of Cassation and not a Court of Appeal, as we understand it in the United States. That is to say, that it is solely a court for the correction of errors, and such errors must be pointed out specifically or the court can take no jurisdiction of them. Not only the general principle violated must be designated, but the article and section, and even the clause of the Civil Code which has been infringed by non-application or

misapplication, and the Code of Civil Procedure giving the remedy must be specified in the writing of appeal for cassation. On failure to do this by appellant the appeal is dismissed on the ground that there is no power on the part of the court of last resort to take cognizance of the case. This has been the case heretofore, both in civil and criminal matters, and it still continues as far as civil cases are concerned; but the new Code of Criminal Procedure changes this, and gives the Supreme Court authority to decide cases by reversing, granting new trials, or modifying or affirming the judgments of the courts below in a similar manner to that practiced by State supreme courts on the continent.

The Penal Code and Code of Criminal Procedure took effect on the first day of July, but of course, as might have been expected, many questions arise as to the applicability of these codes to the trial of cases arising out of crimes committed prior to the date when they went into force. This remains to be settled.

The transition of the people of Porto Rico from the ancient laws of Spain to the new American system, especially in the administration of justice, is very interesting, and as viewed from the Supreme Court very intricate and of vast importance. Of course it is necessary for the judges of that court to be very careful in all their proceedings, applying the new laws in their utmost vigor, but at the same time refraining from giving them a retroactive force, and little by little transforming the ancient Spanish judicial system into a system worthy of modern American jurisprudence.

In this period of Porto Rico's history, it may be counted as truly fortunate that the Supreme Court is presided over by the learned, high minded men who sit as justices.

*William H. Hunt.*